

AMENDED IN ASSEMBLY APRIL 28, 2005

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 875**

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**Introduced by Assembly Members Koretz and Jerome Horton**  
**(Coauthors: Assembly Members *Bermudez, Chu, Hancock, and***  
**~~Leno~~ *Leno, Lieber, and Ridley-Thomas*)**  
*(Coauthor: Senator Romero)*

February 18, 2005

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An act to add ~~Sections 559 and 1197.2~~ *Section 559* to the Labor Code, relating to employee wages and working hours.

### LEGISLATIVE COUNSEL'S DIGEST

AB 875, as amended, Koretz. Employee wages and working hours: violators.

Existing law attributes various duties and requires private employers to perform certain activities with regard to employee wages, hours, and working conditions.

This bill would require the Economic and Employment Enforcement Coalition, in consultation with the Franchise Tax Board and the Joint Enforcement Strike Force on the Underground Economy, to develop and implement sets of standards that, if met by an employer, would trigger recommendation for an audit by appropriate state tax authorities of employers in violation, and referral to the Labor Commissioner for investigation of violations, of statutes relating to employee wages, hours, and working conditions. After July 1, 2006, this bill would require the Labor Commissioner and state tax authorities to take specified actions to facilitate audits and investigations of employers who meet the standards required by this

bill. *This bill would also state findings and declarations relating to the underground economy.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. (a) The Legislature finds and declares all of the*  
2     *following:*

3     *(1) Despite many targeted enforcement efforts in recent years,*  
4     *evidence indicates that the underground economy in California is*  
5     *flourishing.*

6     *(2) According to a 2003 report by the Joint Enforcement Strike*  
7     *Force on the Underground Economy, \$232 million in unreported*  
8     *payroll taxes were identified in 2003, which represent only that*  
9     *portion of the underground economy that we actually know*  
10    *about.*

11    *(3) The underground economy harms everyone—workers, the*  
12    *state through lost revenue, and the vast majority of law-abiding*  
13    *businesses that face unlawful competition from employers*  
14    *operating in the underground economy.*

15    *(4) It is therefore in the public interest to establish a*  
16    *coordinated approach to enforcement in the underground*  
17    *economy, which approach would include a nexus between the*  
18    *state's enforcement of labor and tax laws.*

19    *(b) It is the intent of the Legislature in enacting this act to*  
20    *target those employers that operate in the underground economy*  
21    *in flagrant violation of law, and not employers that commit minor*  
22    *or inadvertent violations of existing law.*

23    ~~SECTION 1.~~

24    *SEC. 2. Section 559 is added to the Labor Code, to read:*

25    559. (a) The Economic and Employment Enforcement  
26    Coalition, in consultation with the Franchise Tax Board and the  
27    Joint Enforcement Strike Force on the Underground Economy,  
28    shall, by July 1, 2006, develop and implement an appropriate set  
29    of standards that, if met by an employer, will trigger  
30    recommendation for an audit by appropriate state tax authorities  
31    of employers in violation of this chapter, *Chapter 1 (commencing*  
32    *with Section 200) of Part 1, or Chapter 1 (commencing with*  
33    *Section 1171) of Part 4.* The set of standards shall take into

1 account, among other things, the severity and number of  
2 violations committed by an employer.

3 (b) The Economic and Employment Enforcement Coalition, in  
4 consultation with the Franchise Tax Board and the Joint  
5 Enforcement Strike Force on the Underground Economy, shall,  
6 by July 1, 2006, develop and implement an appropriate set of tax  
7 violation standards that, if met by an employer, will trigger  
8 referral to the Labor Commissioner for investigation for  
9 violations of this chapter.

10 (c) After July 1, 2006, the Labor Commissioner shall take all  
11 of the following actions with respect to an employer who has met  
12 the set of standards developed by the Economic and Employment  
13 Enforcement Coalition pursuant to subdivision (a):

14 (1) Notify the appropriate state tax authorities each time the  
15 set of standards is met by an employer.

16 (2) Provide the appropriate state tax authorities with the name  
17 of the employer and all relevant and necessary information  
18 regarding the violations.

19 (3) Make a recommendation to the appropriate state tax  
20 authorities that the employer be audited.

21 ~~(d) The Labor Commissioner shall compile a list of referrals~~  
22 ~~made to the appropriate state tax authorities under subdivision (c)~~  
23 ~~on an annual basis. The list shall specify the name and tax~~  
24 ~~identification number of each employer and the nature of the~~  
25 ~~violations.~~

26 ~~(e)~~

27 (d) After July 1, 2006, the appropriate state tax authorities  
28 shall take all of the following actions with respect to an employer  
29 who has met the set of standards developed by the Economic and  
30 Employment Enforcement Coalition pursuant to subdivision (b):

31 (1) Notify the Labor Commissioner each time the set of  
32 standards is met by an employer.

33 (2) Provide the Labor Commissioner with the name of the  
34 employer and all relevant and necessary information regarding  
35 the violations.

36 (3) Make a recommendation to the Labor Commissioner that  
37 the employer be investigated for violations of this chapter.

38 ~~(f) The appropriate state tax authorities shall compile a list of~~  
39 ~~referrals made to the Labor Commissioner under subdivision (c)~~  
40 ~~on an annual basis. The list shall specify the name and tax~~

1 identification number of each employer and the nature of the  
2 violations:

3 SEC. 2. Section 1197.2 is added to the Labor Code, to read:

4 1197.2. (a) The Economic and Employment Enforcement  
5 Coalition, in consultation with the Franchise Tax Board and the  
6 Joint Enforcement Strike Force on the Underground Economy,  
7 shall, by July 1, 2006, develop and implement an appropriate set  
8 of standards that, if met by an employer, will trigger  
9 recommendation for an audit by appropriate state tax authorities  
10 of employers in violation of this chapter. The set of standards  
11 shall take into account, among other things, the severity and  
12 number of violations committed by an employer.

13 (b) The Economic and Employment Enforcement Coalition, in  
14 consultation with the Franchise Tax Board and the Joint  
15 Enforcement Strike Force on the Underground Economy, shall,  
16 by July 1, 2006, develop and implement an appropriate set of tax  
17 violation standards that, if met by an employer, will trigger  
18 referral to the Labor Commissioner for investigation for  
19 violations of this chapter.

20 (c) After July 1, 2006, the Labor Commissioner shall take all  
21 of the following actions with respect to an employer who has met  
22 the set of standards developed by the Economic and Employment  
23 Enforcement Coalition pursuant to subdivision (a):

24 (1) Notify the appropriate state tax authorities each time the  
25 set of standards is met by an employer.

26 (2) Provide the appropriate state tax authorities with the name  
27 of the employer and all relevant and necessary information  
28 regarding the violations.

29 (3) Make a recommendation to the appropriate state tax  
30 authorities that the employer be audited.

31 (d) The Labor Commissioner shall compile a list of referrals  
32 made to the appropriate state tax authorities under subdivision (c)  
33 on an annual basis. The list shall specify the name and tax  
34 identification number of each employer and the nature of the  
35 violations.

36 (e) After July 1, 2006, the appropriate state tax authorities  
37 shall take all of the following actions with respect to an employer  
38 who has met the set of standards developed by the Economic and  
39 Employment Enforcement Coalition pursuant to subdivision (b):

1     ~~(1) Notify the Labor Commissioner each time the set of~~  
2     ~~standards is met by an employer.~~

3     ~~(2) Provide the Labor Commissioner with the name of the~~  
4     ~~employer and all relevant and necessary information regarding~~  
5     ~~the violations.~~

6     ~~(3) Make a recommendation to the Labor Commissioner that~~  
7     ~~the employer be investigated for violations of this chapter.~~

8     ~~(f) The appropriate state tax authorities shall compile a list of~~  
9     ~~referrals made to the Labor Commissioner under subdivision (c)~~  
10    ~~on an annual basis. The list shall specify the name and tax~~  
11    ~~identification number of each employer and the nature of the~~  
12    ~~violations.~~

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